

### **REMARKS/ARGUMENTS**

Claims 4, 17-19, 23, 33-37, and 39-72 are currently pending in the instant application. The present Office Action includes a Request for Restriction, rejections under 35 U.S.C. §112, an obviousness-type double patenting rejection, and objections to certain claims, responses to which are discussed below.

Claims 23 and 64 have been amended by insertion of a period at the end of the claims.

Claim 40 has been canceled. Claims 42 and 43 have been converted to independent method of treatment claims.

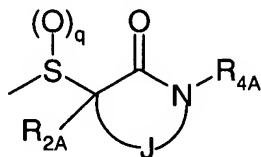
Claim 45 has been amended to refer only to compounds of claim 17.

#### **I. REQUEST FOR RESTRICTION**

Claims 4, 17-19, 23, 33-37, and 39-72, all pending claims, are subject to a restriction requirement under 35 U.S.C. §121. The Examiner has required the Applicants to elect one of the allegedly distinct inventions, classified as Groups I-III.

Applicants affirm the provisional election of Group II with traverse, made in a telephone conversation with the Examiner on May 25, 2004. Applicants reserve the right to prosecute the claims encompassed by any of the non-elected groups in future divisional applications.

Applicants respectfully submit that groups II and III can be combined into one group, and a search of such a group would not impose a significant burden on the Patent Office. The compounds of group II, formula (V) and of group III, formula (VII) share the same



core such that a search of the core would necessarily yield results for compounds of both formulas (V) and (VII).

Hence, Applicants respectfully request that the Restriction Requirement be

reconsidered and that groups II and III be combined into one restriction group.

**II. REJECTION UNDER 35 U.S.C. § 112, 1<sup>st</sup> paragraph**

The Office Action rejects Claims 41-44 under 35 U.S.C. § 112, 1<sup>st</sup> paragraph, for lack of enablement.

Applicants have deleted claim 41 and converted claims 42 and 43 to be independent method of treatment claims. Applicants respectfully submit that these amendments render the rejections moot, and request the rejection be withdrawn.

**III. REJECTION UNDER U.S.C. § 112, 2<sup>ND</sup> paragraph**

The Office Action rejects Claims 23 and 64 U.S.C. § 112, 2<sup>ND</sup> paragraph as being indefinite.

Applicants have amended claims 23 and 64 to include a period. Applicants respectfully submit that these amendments render the rejections moot, and request the rejection be withdrawn.

**IV. DOUBLE PATENTING**

The Office Action rejects Claims 17, 41-45, 54 and 56-60 under the doctrine of double patenting over claims 2, 4, and 19-24 of U.S. Pat. No. 6,492,396.

Although Applicants do not agree that the pending claims are obvious in view of the '396 patent, the rejection can likely be overcome, for example, through the filing of a terminal disclaimer upon an indication of allowable subject matter.

**V. OBJECTIONS**

The Office Action objects to Claims 18, 19, 55 and 61 as being dependent upon a rejected base claim.

Applicants are unsure of the nature of the rejection of claims 18, 19, 55 and 61. These claims are all dependent on claim 17, which is an independent claim drawn to compounds of formula (V). Applicants are unaware of any rejections regarding claim


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17. Applicants invite further clarification on this objection.

**V. CONCLUSION**

In view of the above, it is believed that all the claims are in form for allowance, and an early notification to that end is respectfully requested. Entry of the remarks and amendments and reconsideration of the present application is respectfully requested.

Date: September 27, 2004

  
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